

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

ANTONIO ORDONEZ, et al.,  
Plaintiffs,  
v.  
COSTCO WHOLESALE CORP., et al.,  
Defendants.

Case No. 5:23-cv-02018-FLA (KKx)

**ORDER TO SHOW CAUSE WHY  
ACTION SHOULD NOT BE  
REMANDED FOR LACK OF  
SUBJECT MATTER JURISDICTION**

1       Federal courts are courts of “limited jurisdiction,” possessing only “power  
 2 authorized by the Constitution and statute[.]” *Kokkonen v. Guardian Life Ins. Co. of*  
 3 *Am.*, 511 U.S. 375, 377 (1994); U.S. Const. art. III, § 2, cl. 1. Courts are presumed to  
 4 lack jurisdiction unless the contrary appears affirmatively from the record. *See*  
 5 *DaimlerChrysler Corp. v. Cuno*, 547 U.S. 332, 342 n. 3 (2006). Additionally, federal  
 6 courts have an obligation to examine jurisdiction *sua sponte* before proceeding to the  
 7 merits of a case. *See Ruhrgas AG v. Marathon Oil Co.*, 526 U.S. 574, 583 (1999).

8       Federal courts have jurisdiction where an action arises under federal law or  
 9 where each plaintiff’s citizenship is diverse from each defendant’s citizenship and the  
 10 amount in controversy exceeds \$75,000, exclusive of interest and costs. 28 U.S.C.  
 11 §§ 1331, 1332(a). Thus, a notice removing an action from state court to federal court  
 12 must include “a plausible allegation that the amount in controversy exceeds the  
 13 jurisdictional threshold.” *Dart Cherokee Basin Operating Co., LLC v. Owens*, 574  
 14 U.S. 81, 89 (2014). Where “the plaintiff contests, or the court questions, the  
 15 defendant’s allegation” concerning the amount in controversy, “both sides [shall]  
 16 submit proof,” and the court may then decide whether the defendant has proven the  
 17 amount in controversy “by a preponderance of the evidence.” *Id.* at 88–89. “Federal  
 18 jurisdiction must be rejected if there is any doubt as to the right of removal in the first  
 19 instance.” *Gaus v. Miles, Inc.*, 980 F.2d 564, 566 (9th Cir. 1992).

20       The court has reviewed the Notice of Removal and Motion to Remand (Dkt. 8),  
 21 and is presently unable to conclude it has subject matter jurisdiction under 28 U.S.C. §  
 22 1332(a). In particular, and without limitation, the court finds that the allegations in  
 23 the Notice of Removal and Motion to Remand do not demonstrate by a preponderance  
 24 of the evidence that the amount in controversy exceeds \$75,000.

25       The parties are ORDERED TO SHOW CAUSE, in writing only, within  
 26 fourteen (14) days from the date of this Order, why this action should not be remanded  
 27 for lack of subject matter jurisdiction because the amount in controversy does not  
 28 exceed the jurisdictional threshold. The parties are encouraged to submit evidence

1 and/or judicially noticeable facts in response to the court's Order. Responses shall be  
2 limited to ten (10) pages in length. The parties should consider this Order to be a two-  
3 pronged inquiry into the facial and factual sufficiency of Defendant's demonstration  
4 of jurisdiction. *See Leite v. Crane Co.*, 749 F.3d 1117, 1122 (9th Cir. 2014).

5 As Defendant is the party asserting federal jurisdiction, Defendant's failure to  
6 respond timely and adequately to this Order shall result in remand of the action  
7 without further notice.

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9 IT IS SO ORDERED.

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11 Dated: December 4, 2023

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FERNANDO L. AENLLE-ROCHA  
United States District Judge